IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION No. 7902 OF 2005.

Rajiv Manohar Karambelkar. Petitioner.

Vs.

Ms. Chairman Nashik Merchants
Co-op Bank Ltd. & Ors. ..Respondents.

Mr. V. V. Thorat with Mr. M. M. Sathaye,
Advocates for the Petitioner.

Mr. Ramesh Dube Patil i/b Ajay Nisar & Co.
for Respondent No.1.

CORAM: R.C. CHAVAN, J.
DATED: 12th January, 2007.

P.C.:-

1. This petition by the plaintiff whose application for injunction before the Trial Court was rejected and the District Court refused to interfere.

2. The petitioner had entered into an agreement to develop certain properties which were mortgaged to respondent no.1-bank. While entering the agreement, the petitioner also approached the respondent-bank and by a letter dated 24th June, 2000 the bank gave no objection for developing half of the property

on certain conditions. The bank had specifically stated that it would have no claim to make in respect of the half of the property which was developed upon by the builder. But this was subject to communicating to the bank as to which was that half by demarcating that half portion after plans for development were sanctioned by the Municipal Corporation. This is not shown to have been done. This amongst other was one of the grounds for which the relief sought by the petitioner to restrain bank from attaching the property in question was rejected by the trial Court as well as the first Appellate Court.

3. I have heard the learned counsel for the petitioner. The petitioner would have been entitled to injunction only after showing that he had strictly complied with the letter dated 24th June, 2000 under which the bank had agreed to restrict its claim to the half portion which was to be demarcated. Not having done so, it is not open now for the petitioner to seek an injunction to restrain the bank from recovering its amount. In view of this no case is made out for interference

in exercise of writ jurisdiction under Article 227 of the Constitution of India. The petition is consequently dismissed.

[R.C. CHAVAN, J]